IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 608 of 1991

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : YES

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

MANSUKHLAL HARILAL ANTANI

Versus

STATE OF GUJARAT

Appearance:

MR YS MANKAD for Petitioner

MR PREMAL JOSHI, AGP, for Respondents

CORAM : MR.JUSTICE J.N.BHATT

Date of decision: 17/03/2001

ORAL JUDGEMENT

By this petition, under Article 226 of the Constitution of India, the petitioner has sought direction against the respondents, for the payment of an amount of Rs.8075/- by way of interest on delayed payment of pension and gratuity with further interest thereon and cost.

The petitioner got the retiral benefits including pension late. He served the State for about 38 years. At the time of retirement, he was serving as Lecturer in Chemistry Department in Gujarat College, Ahmedabad. He retired from service on 30.4.1989 on attaining the age of superannuation of 58 years. Since he was not paid the retiral benefits as per the resolution of the Government, on the basis of date of retirement, he has claimed interest on delayed payment. It has been, specifically, mentioned in para 4 and 5 of the petition that he has suffered loss on account of delayed payment of pension and gratuity. The petitioner had, repeatedly, requested the respondent authority for the same on several occasions. However, no positive response was made. A notice was also given on 29.8.90 to the respondents calling upon them to pay an amount of Rs.3530/- towards nine months interest at the rate of 7 per cent on D.C.R.G. amount of Rs.67,257.50 for the period from 1.7.89 to 31.3.90 and, also, an amount of Rs.4,584/towards interest on commutation amount of Rs.86,542/- for the same period totalling in all Rs.8075/-. Reply to the notice sent by the respondent No.2, dated 5.10.90 is placed on record by the petitioner.

Affidavit in reply is filed by one Mr.D.A.Vora, Legal Officer of the Director of Higher Education, Gujarat State, respondent No.2, inter alia, contending that there was no delay or inadvertence on the part of the respondent authorities. In para 5 of the reply, it has been stated that it was expected that the pension case would be finalised on due date. However, as the pension case was delayed, the Directorate of Higher Education sanctioned provisional pension of Rs.1800/- and provisional D.C.R.G. of Rs.60,500/- on 5.2.90. It is, therefore, the case of the respondent authority that they had sanctioned provisional pension to the petitioner in order to see that the petitioner does not suffer avoidable hardship. It has been stated that there was no delay in preparing and finalising the pension case of the petitioner. On the contrary, it is stated that there was non-furnishing of relevant information required in the preparation of the pension papers and, also, for the withdrawal of the pension papers from the office, at the instance of the petitioner for revision of the pay-scale.

Ordinarily, in case of disputed question of facts, the writ Court would be at loath to interfere. Whether delay occasioned on account of the inaction on the part of the respondent authority or not could, appropriately, be

resolved in a case of disputed facts by the competent civil court. However, in view of the delay of almost a decade in disposal of this writ petition, it would not be, in any way, equitable, judicious or reasonable to direct the petitioner to get his dispute resolved with regard to the amount of less than rupees ten thousand by a competent civil court. Therefore, without entering into any other question of law, on the basis of the peculiar facts and special circumstances obtainable in the present case and the small amount of less than Rs.10,000/- involved on account of delayed payment and the long and meritorious service rendered by the petitioner in the Government college and, that too, in the field of education, the respondent authorities are directed to pay an amount of Rs.8075/- (Rupees eight thousand and seventyfive only) on account of delay in payment of retiral dues. Obviously, this is not a case where it could be decided on principle of law, but keeping in mind the special facts of the present case, the petition is required to be allowed to the aforesaid extent.

Accordingly, the petition shall stand allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs. The request made by the learned AGP to stay the above direction does not deserve to be entertained. Hence the request is rejected.

(J.N.Bhatt, J.)

(vjn)